

Regulating Trade with the Indians, &c.

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Acts and Laws

Passed by the Great and General Court or Assembly of His Majesty's Province of the Massachusetts-Bay in New-England, Begun and Held at Boston, upon Wednesday the Twenty-eighth Day of May 1735. And continued by Adjournments to Wednesday the Nineteenth Day of November following.

CHAPTER XII.

An Act for the more effectual regulating the private Trade with the Eastern and Western Indians, and the preventing Abuses therein.

WHEREAS in and by an Act entitled, An Act for allowing necessary Supplies to the Eastern and Western Indians and for regulating Trade with them, It is Provided, "That no Person or Persons whatsoever, other than the Truck-Masters, shall or may presume by themselves, or any other for them, directly or indirectly, to sell, give, truck, barter or exchange to any Indian, any strong Beer, Ale, Cider, Perry, Wine, Rum, Brandy, or any other strong Liquors, by what Name or Names soever called or known, on Penalty of forfeiting the Sum of Fifty Pounds or six Months Imprisonment for each Offence;" Yet notwithstanding there are many Persons, who do contrary to said Act, let the Indians have strong Liquors and thereby debauch them: And inasmuch as it is very hard and difficult to detect and convict such as do presume to offend against said Act in the ordinary Course and Method of the Law, by reason such Offences are generally committed so secretly and in such a Way as positive Evidence can scarcely ever be had; which makes it necessary that some further Provision should be made for the better discovery of such ill disposed Persons;

Be it enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the Accusation and Affirmation of any Indian or Indians (the Accuser and Accused being brought Face to Face at the Time of Tryal) shall be accounted and held to be a legal Conviction of the Person accused of giving,

Preamble.

6 G. II. ca. 16,

W. U. 92 ca 7

The Proof of selling strong Drink to the Indians, upon their Complaint.

giving, selling or delivering Wine, Rum, or any other strong Drink or Liquors to such Indian or Indians, unless the Person accused shall acquit himself upon Oath, which the Court in all such Cases are hereby impowered to administer in the Form following, Viz.

Oath to be taken for Acquittance.

"YOU A. B. do Swear, That neither your self, nor any other by your Order, general or particular Assent, Privy, Knowledge or Allowance, directly or indirectly, did give, sell or deliver, any Wine, Cider, Rum or other strong Liquors, or Drink by what Name or Names soever called or known, unto the Indian by whom and whereof you are now accused".

Proof of selling strong Drink to the Indians upon other Persons Complaint.

And be it further enacted by the Authority aforesaid,

That upon the Complaint or Information of any other Person for the Breach of the fore-recited Law, there being such Circumstances as render it highly probable, in the Judgment of the Court before whom the Tryal is, That the Person complain'd of is guilty of the Breach of the said Act, then and in every such Case, unless the Defendant shall acquit himself upon Oath as aforesaid, to be administered to him by the Court before whom the Trial shall be, the same shall be accounted a legal Conviction of the Defendants giving, selling or delivering of Wine or other strong Liquors, of which he shall be accused, and he shall pay and suffer the Penalty already by said Law provided: But in Case the Defendant shall acquit himself upon Oath to be administered to him as aforesaid, That then he shall recover against the Complainant double his Costs occasioned by such Prosecution.

Persons accused, to be bound over to the Court.

And be it further enacted by the Authority aforesaid,

That upon the Acculation of any Indian, or Complaint of any other Person, to any of His Majesty's Justices of the Peace within this Province, against any Person for selling, giving or delivering any Wine, Rum, or other strong Liquors to any Indian, contrary to the true Intent and Meaning of the before-recited Act, the Justice may tender to the Person accused the complained of the aforesaid Oath (unless there be such other Circumstances concurring as render it highly probable in the Opinion of the Justice that the Person accused is guilty) which if he refuse to take, he shall bind him in a Bond of Recognizance not exceeding One Hundred Pounds, with Sureties, to answer the same at the Court of General Sessions of the Peace next to be held in the County where the Offence is committed: But if the Person accused shall acquit himself upon Oath as aforesaid, the Justice shall dismiss the Person accused, and allow him double his Costs against the Complainant occasioned by such Prosecution.

Penalty for false Swearing.

And be it further enacted by the Authority aforesaid,

That if any Person or Persons shall hereafter be convicted of false Swearing, in any Case in this Act mentioned, he and they shall be liable to the same Pains and Penalties as is already by Law provided against wilful Perjury.

No Person to sell any Goods to the Indians within six Miles of a Truck-House Penalty.

And be it further enacted by the Authority aforesaid,

That no Person or Persons whatsoever, other than the Truck-Masters, and they only as such, shall or may presume, by themselves or any other for them, directly or indirectly, to sell, truck, barter or exchange to any Indian or Indians, any Wares, Merchandizes or other Provisions, within six Miles of any of the Truck-Houses within this Province, on Penalty of forfeiting the Sum of Fifty Pounds or six Months Imprisonment for each Offence. The one Moiety of all Fines and Forfeitures arising by vertue of this Act to be laid out in procuring Supplies for the carrying on the Trade with the Indians; the other Moiety to him or them that shall inform and sue for the same in any of His Majesty's Courts of Record.

Limitation.

THIS Act to commence and be in force from and after the First Day of March next, and to continue for the space of Three Years, and from thence to the End of the next sitting of the General Court and no longer.

Support of Ministers.

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CHAP. XIII.

An Act in addition to the several Acts or Laws of this Province for the Settlement and Support of Ministers.

WHEREAS several Persons dwelling within some of the Towns of this Province who conscientiously profess themselves to be of the Church of England, and differ in Opinion from the Discipline and Form of Worship used in the respective Churches established within this Province, apprehend it to be unreasonable they should be obliged to pay for the Support of the Minister settled according to Law in the Place of their Residence, inasmuch as they give no Attendance on his publick Administrations; but they and their Families usually attend the publick Worship of GOD according to the Manner of the Church of England, either within their own or some neighbouring Town, Parish or Precinct:

Be it therefore enacted by His Excellency the Governor, Council and Representatives in General Court assembled, and by the Authority of the same,

That all such Persons as profess themselves to be of the Church of England, and usually attend the publick Worship of GOD according to the Manner of that Church, and those who are of the Churches established by the Laws of this Province, that live in the Bounds of any Town, Parish or Precinct allowed by this Court, shall be taxed for the Support of the Ministry in such Town, Parish or Precinct where they respectively reside, in the same Manner and by the same Rule and Proportion as is or shall be by Law provided; and the Treasurer of the Town, Parish or Precinct respectively, after he has received such ministerial Tax from the Collector or Collectors, shall deliver or cause to be delivered the Taxes of all such Persons as declare themselves to be of the Church of England who usually and frequently attend the publick Worship of GOD on the Lord's-Days at some Church of England, (after the same has been ascertained by the Assessors of such Town, Parish or Precinct) unto the Minister of the Church of England, where he attends as aforesaid, which Minister shall have full Power to receive, and if need be to recover the same in the Law, in order to his Support in the Place assigned to him.

And it is further enacted by the Authority aforesaid

That if any Deficiencies shall happen by the said Payment of the Minister of the Church of England as aforesaid, in the Salary which any of the Towns, Parishes or Precincts respectively within this Province have covenanted and agreed to pay the Ministers of the Churches therein by Law established, that then and in every such Case the said Towns, Parishes and Precincts respectively, shall within the space of two Months next after such Deficiency happening, make good the same; and the Parishioners of the Church of England, professing and attending as aforesaid, are hereby excused from paying any Taxes, as well for the Settlement of Ministers, as for the Building Meeting-Houses for the Use of the established Church within this Government.

Provided always, That no Person whatsoever shall be exempted as aforesaid, or his Tax be paid over to the Minister of the Church of England, unless it be first certified by the Minister of the Church of England and the Church-Wardens to the Treasurer of such Town or Parish where he inhabits, that such Person is a Member of the Church of England, and gives his Attendance on the publick Worship there in manner as aforesaid.

Provided also, That nothing contained in this Act shall extend to the Town of Boston, or any other Town, Parish or Precinct within this Province, where the Minister or Ministers are or shall be supported by a free Contribution or Subscription.

THIS Act to continue and be in force for the space of Five Years from the Publication thereof and no longer.

CHAP.

Preamble.

Ministerial-Taxes of Persons attending at the Church of England, to be paid to the Episcopal-Minister in Case.

Deficiency occasioned thereby to be made good.

Proviso

Limitation.

CHAP. XIV.

An Act for the more effectual Collecting the Excise upon strong Liquors within this Province.

Preamble.

WHEREAS the Provision made by Law for the Collectors of Excise giving Bond to the Province Treasurer hath proved insufficient and ineffectual:

For the Remedy whereof and for the more effectual collecting the Excise:

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled and by the Authority of the same,

Collectors of Excise to give Bond, before they act in their Office.

That every Collector of Excise shall before he presume to act in his Office, give unto the Treasurer of the Province for the Time being, and his Successor in the said Office, in manner as by the Law for granting to His Majesty an Excise upon Liquors is already provided, a Bond duly executed, with sufficient Sureties for the faithful Performance of his Duty, and the paying the Money he shall collect into the Treasury. And if he shall neglect to give Bond before he act in his Office as aforesaid, he shall forever after be disqualified to sustain said Office, and shall forfeit and pay double the Sum that has ever been paid into the Treasury for Excise in one Year in said County, three quarter Parts thereof to the Province-Treasurer, for the use of the Province, and the other quarter Part to him who shall inform and sue for the same, to be recovered by Bill, Plaint or Information in any of His Majesty's Court of Record within this Province.

Penalty.

And be it further enacted by the Authority aforesaid,

That every Collector of Excise not performing the Condition of his Bond, shall over and above the Forfeiture of the same, forever after, be disqualified to sustain said Office.

Limitation.

THIS Act to continue and be in force till the End of the Excise Act made in the Fifth and Sixth Years of His present Majesty's Reign.

CHAP. XV.

6 G. II. ca. 6. An Act in Explanation of an Act entitled, An Act for the Relief of poor Prisoners for Debt.

Preamble.

WHEREAS some Doubts have arisen upon the Act made and passed in the Sixth Year of the Reign of His present Majesty, entitled, An Act for the Relief of poor Prisoners for Debt, respecting the Benefit they ought to receive, by taking the Oath in said Act provided:

Be it therefore enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same,

Poor Prisoner taking the Oaths, from what Debts to be discharged.

That when any Person standing committed for Debt or Damage upon Execution, and hath attended the Directions of said Act, he shall only be discharged from such Execution wherein the Creditor, his Agent or Attorney was duly notified, in such Manner as the said Act directs, and not from any other Debt or Damage, upon which he stands committed; and that when any Prisoner stands committed upon sundry Executions, he shall receive no Benefit by the taking said Oath, with respect to any Executions that may be served upon him after taking the same; but he shall be obliged to take the Oath again, and attend the Directions of the said Act before he shall receive any Benefit thereby; which was and is the true Intent and Meaning of said Act, and is so to be understood, during the Time the said Act shall continue and be in force.

CHAP.

CHAP. XVI.

An Act more effectually to prevent the Counterfeiting the Bills of Credit on this Province.

BE it Enacted by His Excellency the Governour, Council, and Representatives in General Court assembled, and by the Authority of the same,

That whosoever after the Publication of this Act shall presume to Forge, Counterfeit or Utter any Bill or Bills (knowing the same when uttered to be false and counterfeit) of the Tenour, or in Imitation of any of the Bills of Credit on this Province by Law established, or that shall counsel, advise, procure, or any Ways assist in the forging, counterfeiting, imprinting, stamping or signing any false Bills, or engrave any Plate, or make any other Instrument to be used for the making any such false and counterfeit Bills, every Person and Persons so offending, being thereof convicted, shall be adjudged to suffer the Pains of Death, without Benefit of Clergy.

Making and Uttering of counterfeit Bills to be punished with Death without Benefit of Clergy.

CHAP. XVII.

An Act to empower the Collectors of Taxes to require Aid.

WHEREAS the Collectors of the Rates and Taxes oft-times labour under Difficulty in collecting from diverse Persons the Sums assessed on them, and sometimes are prevented ever collecting the same, for that the Law doth not empower the Collectors to require and take Aid to assist them in distreining for the Rates committed to them to collect, and apprehending Persons who refuse to Pay the same; which is to the publick Damage:

Preamble.

For Remedy whereof;

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same,

That if any of the Collectors of the Province, County, Town and Precinct Rates and Taxes, when in the Execution of their Office shall be hindered and impeded in collecting the Rates and Taxes committed to them, it shall be lawfull for such Collectors, if need be, to require some meet Person or Persons to aid and assist them therein. And that all Persons so required that shall refuse their Aid and Assistance, and shall be convicted thereof, before one or more of His Majesty's Justices of the Peace in the County where the Offence is committed, shall pay a Fine to be disposed of to the Use of the Poor of the Town where the Offence may arise, not exceeding Forty Shillings, at the Discretion of the Justice or Justices according to the Circumstances of the Offence; provided that it appear to the said Justice or Justices that the Aid so demanded as aforesaid was necessary.

Collectors of Taxes empowered to Demand Aid.

Penalty for refusing to give Aid.

AND if the Person so convicted will not pay his Fine, the Justice or Justices may upon Refusal thereof, order such Person to the common Goal of the County, there to remain a close Prisoner for the space of Forty-eight Hours, or order him to be set in the Stocks for the space of Two Hours.

556 Unnecessary Petitions. Destruction of Alewives.

CHAP. XVII.

An Act to prevent unnecessary Petitions to the Great and General Court.

Preamble. *WHEREAS* Persons are frequently put to great Cost and Charge in making Answers to causeless Petitions preferred to the General Court of this Province:
For Remedy whereof:

Persons preferring causeless Petitions to the General Court, to pay the Respondents Costs and Damages.
Be it enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That for the future, when any Petition or Complaint exhibited to the General Court shall be dismissed as vexatious or causeless, the Respondent or adverse Party shall be entitled to have and receive of the Petitioner or Complainant, all such reasonable Costs and Damages, as he or they have sustained in attending or making Answer to such Petition or Complaint.

Limitation of the Time for giving in Petitions.
And be it further enacted by the Authority aforesaid, That no Petition shall be received into the Court, except the same be preferred within the space of Fourteen Days from the first sitting of said Court, unless the Cause upon which the Petition is founded arose within the sitting of said Court.

THIS Act to continue and be in force for Five Years from the Publication thereof, and from thence to the End of the next Session of the General Court and no longer.

CHAP. XIX.

An Act to prevent the Destruction of the Fish called Alewives.

Collectors of the Province.
Preamble. **NOTWITHSTANDING** the Provision by Law already made for removing Incumbrances obstructing the natural or usual Course of Fish in their Season in Brooks or Rivers; yet no sufficient Remedy is provided where such Obstruction is occasioned by Dams erected for Mills, &c. which is to the grievous Damage of His Majesty's good Subjects in diverse Parts of this Province, more especially where such Dams have been made across Rivers through which Alewives or other Fish have been wont to pass in great Plenty into Ponds, there to cast their Spawns;

Wherefore to prevent the like Inconvenience and Damage for the future:

Sluice to be left in Mill-Dams, where Fish pass, on Penalty.
Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That no Dam shall hereafter be erected across any River or Stream (thru which Alewives or other Fish have been accustomed to pass into Ponds) in which there is not made and left a convenient Sluice or Passage for such Fish, on Penalty that the Owner or Owners of such Dam shall upon Conviction of Failure or Neglect therein, before any Court proper to Try the same, forfeit and Pay the Sum of Fifty Pounds; and if the Owner or Owners of such Dam shall not keep such Sluice open during the space of Thirty Days

Destruction of Alewives prevented.

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Days in a Year at least, at such Time or Times as the Alewives usually pass such Stream, that then he or they shall forfeit and pay the Sum of Twenty Shillings per Day for every Day of the aforementioned and limited Time it shall not be kept open.

And be it further enacted by the Authority aforesaid,

That it shall be in the Power of any Town within this Province, to cause any Dam within the same to be annually opened, and a convenient Sluice therein to be made for the Passage of Fish, and such Town shall bear the Charge and pay the Damage which shall accrue to the Owner of such Dam, by Reason or Means of opening the same as aforesaid: And if the Owner or Owners of any Dam, lying below or near the Mouth of any River or Stream on which there is no other Dam, or where the upper Dam or Dams across the same Stream are open, shall neglect or refuse to open the same for the convenient Passage of Fish as aforesaid, upon Application unto him or them made by any Town or Towns for that purpose, it shall and may be lawful for such Town or Towns aggrieved to apply to Three or more of His Majesty's Justices of the Peace for the same County, not dwelling in or belonging unto any of the Towns concerned, who are hereby directed to order such Dam to be opened for the Use aforesaid, and to appoint and empower a Committee for that purpose: Which Dam so opened by the Town in which the same lies as aforesaid by Order of such Justices, shall be kept open by the space of thirty Days annually as aforesaid; the Commencement and Determination of the said thirty Days in this Act mentioned, to be ordered as the Select-Men of such Town or Towns, or the major Part of the said Towns reaping Benefit by opening or keeping open thereof, or desiring the same, shall judge convenient; or if the Owner or Owners of such Dam, or any other Person or Persons shall presume to stop any Sluice or Passage made as aforesaid during any of the before-mentioned thirty Days, the Person or Persons so offending shall forfeit and pay for every such Offence the Sum of Thirty Pounds; and such Town or Towns reaping Benefit as aforesaid, shall make Satisfaction to the Owner or Owners of any Dam or Dams, for all the Damage he or they shall sustain by the opening or keeping open thereof, in Proportion to the Benefit such Town or Towns shall respectively reap thereby, as shall be adjudged and determined by a Jury, in Case the Parties don't otherwise agree; and the Owner or Owners of the said Dam or Dams see cause to complain to the Court of General Sessions of the Peace, who are hereby empowered to issue out a Warrant, directed to the Sheriff, for the summoning and impanelling the said Jury, who shall be Sworn by a Justice of the Peace to a faithful and indifferent Appraisal of the Damages the Owner or Owners of any Dam or Dams shall sustain by the opening thereof, or keeping the same open from time to time as aforesaid; and the said Jury's Verdict being returned by the Hand of the Sheriff to the next Court of Quarter Sessions of the County wherein such Dam or Dams, is or may be, being allowed and recorded, shall be a final Determination and Issue of the Affair, and shall be a sufficient Bar against any Action to be brought for any Damages occasioned by the opening or keeping open any Dam or Dams aforesaid; Saving only an Action of Debt which the Complainant may bring from time to time for the Recovery of what shall be given or found by the Verdict aforesaid.

Provided always, That where the Jury shall find no more Damage than what the Town or Towns may have offered and tendered to Pay to the Owner or Owners of such Dam, that then the Cost and Charge of the Jury in viewing and valuing the same, shall be born by such Owner or Owners of said Dam or Dams, to be levied by Distress and Sale of such Complainants Goods by Order of said Court: Saving always, That all previous Contracts and Agreements in Writing, referring to such Dam or Dams shall be held good and valid to bind and oblige the Parties thereunto, according to the true Intent and Meaning thereof; any Thing in this Act to the contrary notwithstanding.

Towns to have Power to cause Sluices to be made in Dams.

To apply to Three or more Justices in case of the Owners refusal.

Time of keeping open the Sluices.

Penalty for stopping the Sluices.

Damage to be determined by a Jury.

Jury's Verdict to bar any Action.

Saving for the Damages so given.

How the Cost shall be born.

Saving.

AND

558 Priviledge of making a New Theodolite granted.

How the Penalties for the Breach of this Act shall be recovered.

Term of the Act.

AND all Forfeitures and Penalties arising by the Breach of this Act shall be recovered by Bill, Plaint or Information in any of His Majesty's Courts of Record, or by Presentment of the Grand Jury; one Moiety whereof to and for the Use of the Poor of the Town where the Offence shall be committed; the other Moiety to him or them that shall inform and sue for the same.

THIS Act to continue and be in force for the space of Seven Years from the Publication thereof, and no longer.

CHAP. XX.

An Act for granting to Rowland Houghton of Boston, in the County of Suffolk, Merchant, the sole Priviledge of making and vending a certain surveying Instrument called the New Theodolite.

Preamble.

WHEREAS Rowland Houghton of Boston, in the County of Suffolk, Merchant, hath humbly Represented by his Petition to this Court, That he has with considerable Trouble and Expence projected and made a New Theodolite for surveying of Lands with suitable Instruments, with greater Ease and Dispatch than any surveying Instrument heretofore projected or made within this Province; which, upon a careful View and Examination, appears to be a Projection tending to publick Benefit and Service; and this Court being willing to encourage Projections whereby the Good of the Publick may be served:

Rowland Houghton to have the Benefit of making and selling the new Theodolite for seven Years.

Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the Authority of the same, That the sole Right, Priviledge, Benefit and Advantage of making and vending or selling the said surveying Instrument called the New Theodolite within this Province, projected and made by him the said Rowland Houghton, be and hereby is given and granted to the said Rowland Houghton and to his Heirs and Assigns, TO HAVE AND TO HOLD to his and their sole Use, Benefit and Behoof for and during the full Space and Term of seven Years, to commence from and after the Publication of this Act.

Other Persons forbid to sell it on Penalty of 40 l.

And be it further enacted by the Authority aforesaid, That all and every other Person and Persons whosoever, be and hereby are strictly forbidden from making, vending or selling within any Part of this Province, the said Instrument called the New Theodolite, for and during the Term aforesaid, on Penalty that every such Person and Persons who shall make, sell or vend the said Instrument called the New Theodolite within this Province during the said Term of Seven Years, unless by or under him the said Rowland Houghton, shall for every Conviction forfeit and pay the Sum of Forty Pounds, to be recovered by the said Rowland Houghton, his Heirs or Assigns, by Bill, Plaint or Information in any of His Majesty's Courts of Record in any County within this Province where the Offence shall be committed.

How the Penalty shall be paid.

(The Nine foregoing Acts were Published January 21. 1735, 6.)

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